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*The Vanguard Group, Inc. and Vanguard  
Marketing Corporation*

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

Barbara Borchers, as Trustee and as attorney in  
fact and, and Betty D. Olson, as a Trustee of  
the Olson Living Trust,

Plaintiffs,

v.

The Vanguard Group, Inc. and Vanguard  
Marketing Corporation,

Defendants.

No. 08-02138-PHX-ROS

**VANGUARD MARKETING  
CORPORATION'S MOTION TO  
DISMISS**

**Motion**

Defendant Vanguard Marketing Corporation ("VMC") moves to dismiss  
Plaintiffs' Complaint against VMC pursuant to Federal Rule of Civil Procedure 12(b)(6)  
for failure to state a claim.

**Memorandum**

VMC should be dismissed because Plaintiffs' Complaint asserts no specific  
substantive allegations against VMC. Plaintiffs' Complaint consists of just six

1 paragraphs, which collectively allege that Plaintiff Betty Olson's son (not named as a  
2 defendant in this action) forged one or more drafts or checks on Plaintiffs' "Vanguard  
3 Money Market and brokerage accounts," and that Defendant The Vanguard Group, Inc.  
4 failed to detect those forgeries. Defendant The Vanguard Group, Inc. has filed an  
5 answer denying any wrongdoing.

6 Although the Complaint makes one collective reference to VMC and The  
7 Vanguard Group, Inc., [*Id.* at ¶ 2], none of the allegations of the Complaint are based  
8 upon or otherwise implicate any alleged conduct by VMC, nor would VMC have had  
9 any involvement in any administration of Plaintiffs' accounts. Accordingly, VMC  
10 requests that it be dismissed from this case. *See, e.g., Miller v. Massi*, 2007 WL  
11 841397, \*1 (D.Ariz. 2007) (dismissing claims against certain defendants where the  
12 factual allegations underlying the claims did not apply to those defendants).

13 Dated: December 1, 2008

**PERKINS COIE BROWN & BAIN P.A.**

14  
15 By: /Jacob C. Robertson

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**CERTIFICATE OF SERVICE**

☒ I hereby certify that on December 1, 2008, I electronically transmitted the attached documents to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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Attorney for Plaintiffs

☐ I hereby certify that on \_\_\_\_\_, 2008, I served the attached document by [first class mail/hand delivery] on Judge \_\_\_\_\_, United States District Court of Arizona, 401 West Washington Street, Phoenix, Arizona 85003-2118.

☐ I hereby certify that on \_\_\_\_\_, 2008, I served the attached document by [facsimile/first class mail/hand delivery] on the following, who are not registered participants of the CM/ECF System: [insert attorneys' names and addresses here]

s/ Charlotte Couch